

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-028-00459C

Parcel No. 610-00-04-002-00

Triple C Inc. (Charles J. Bacon),

Appellant,

v.

Delaware County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 10, 2015. Curtis Bacon, Partner, represented Triple C Inc. County Attorney John Bernau represented the Delaware County Board of Review.

Triple C Inc. is the owner of a commercial convenience store located 301 3rd Street NW, Hopkinton. The improvements, built between 1988 and 1989, have 4752 square-feet of gross building area (GBA). The site is 2.34 acres.

The property's January 1, 2015, assessment was \$189,100, allocated as \$36,700 in land value and \$152,400 to improvement value. Triple C's protest to the Board of Review claimed the property was assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b).

The Board of Review lowered the grade of a portion of the improvements to 5-10 and the condition to very poor; lowered the grade of the addition to 5-10 and the condition to very poor; and removed all of the value attributed to the car-wash bay. It modified the assessment to \$162,200, allocated as \$36,700 in land value and \$125,500 in improvement value.

Triple C then appealed to PAAB. It believes the correct fair market value is \$129,600.

Findings of Fact

Triple C submitted eight photos of the improvements. (Exs. 1-8). In its opinion, the photos demonstrate the property needs updating and has many areas of deferred maintenance. The Board of Review appears to have already relied on this evidence in its decision to modify the assessment.

Triple C also submitted a 2014 profit and loss statement. (Ex. 9). However, we do not find the profit and loss statement sufficient evidence in determining the fair market value of the subject property.

Curtis Bacon, a partner in Triple C, testified on its behalf. He stated the property has been listed for sale over ten years for \$300,000. He stated this price includes the inventory and equipment, which has a value of approximately \$200,000. He, therefore, believes the real estate is worth \$100,000. He stated there have been no updates to the improvements or equipment in over twenty years. Bacon testified the listing price was based on a desired \$100,000 profit to each of the three partners; there have been no offers and there has been no appraisal of the property.

On its petition to the Board of Review, Triple C had identified The Mini-Mart as a comparable property; its 2015 assessment is \$110,300. Ultimately, Triple C asserts this property is assessed for less than its property, but it has not recently sold and no analysis of the properties' similar features or differences was presented in order to draw a conclusion of value for the subject property. The following chart summarizes the information PAAB finds in the record regarding the two properties.

| | Gross Building Area (GBA) | Year Built | Condition | 2015 Assessed Value | AV/SF |
|---------------|---------------------------|------------|--------------|---------------------|---------|
| Subject | 4752 | 1988/89 | Very Poor | \$162,200 | \$34.13 |
| The Mini Mart | 1688 | 1900 | Below Normal | \$110,300 | \$65.34 |

Charles J. Bacon, another partner, also testified. His testimony supported Curtis'. Charles does not believe the assessment of the subject property is at its fair market value.

Delaware County Assessor Andrea Schmidt testified for the Board of Review. She explained that Delaware County hired Vanguard Appraisal to assist with a

countywide commercial reassessment in 2015. Schmidt was critical of using The Mini Mart as a comparable property for the subject. She noted it is an older and smaller property but is in better condition. (Ex. L). She also notes the assessed value per-square-foot of The Mini Mart is \$65.34, as compared to the subject property's assessed value of \$34.13 per-square-foot.

Robert Ehler, President of Vanguard Appraisals, also testified on behalf of the Delaware County Board of Review. Ehler explained Vanguard's role in the 2015 assessment process. Ultimately, the Board of Review modified the assessment; therefore, we do not find it necessary to recite the entirety of Ehler's testimony. We note his testimony indicated that typical mass appraisal methodology was used in determining the original 2015 assessment.

Ehler also testified regarding the economic obsolescence Vanguard applied to the assessment. He explained that an analysis of convenience stores in Iowa supported a 10% economic obsolescence adjustment to the subject's cost analysis. (Ex. J).

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Triple C Inc. asserts its property is over-assessed; however, it did not provide any evidence of the fair market value such as an appraisal, any comparable properties, or a cost analysis to provide additional support for their claim. Therefore, it has failed to support its assertion that the property is assessed for more than its fair market value.

Order

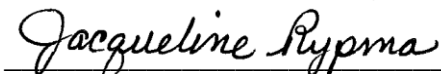
IT IS THEREFORE ORDERED that the Delaware County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

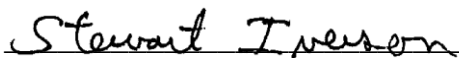
Dated this 20th day of November, 2015.



Karen Oberman, Presiding Officer



Jacqueline Rypma, Board Member



Stewart Iverson, Board Chair

Copies to:

Triple C Inc. / Curtis Bacon

John Bernau